

**TESTIMONY OF MARK C. VAN NORMAN**  
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**U.S. Department of Justice**  
**Before the Senate Indian Affairs Committee**  
**February 23, 2000**

Good morning. Mr. Chairman, Mr. Vice Chairman, and Members of the Committee, I am Mark Van Norman, Director of the Office of Tribal Justice, Department of Justice.

Thank you for inviting the Attorney General to testify concerning the Indian Country Law Enforcement Improvement Program budget request for FY 2001. If other responsibilities had permitted, Attorney General Reno would have liked to have testified in person and asked me to express to you her regret that she is unable to do so. The Attorney General is very interested in the Indian Law Enforcement Improvement Initiative and views Justice Department efforts to improve law enforcement in Indian communities as an important priority. This is the third year of the Indian Law Enforcement Improvement, which began in FY 1999 with this Committee's support. Our FY 2001 budget request for the Justice Department's portion of the initiative is \$173.3 million, which represents an increase of \$81.8 million above our FY 2000 appropriation. The Budget also includes a request for a \$19 million increase for the Bureau of Indian Affairs portion of our joint initiative.

This initiative is critically important because, while crime rates have dropped around the Nation for the past several years, violent crime has risen in many American Indian and Alaska Native communities. American Indians are victims of violent crime at more than twice the rate of all U.S. residents. The Justice Department, in cooperation with the Interior Department's Bureau of Indian Affairs (BIA), is working to improve public safety in Indian communities by increasing the number of police officers, providing training and equipment, building detention facilities,

enhancing juvenile crime prevention, improving tribal courts and evidence gathering, and addressing the connection between alcohol abuse and violent crime.

## **VIOLENT CRIME AMONG AMERICAN INDIANS AND ALASKA NATIVES**

Federal and tribal law enforcement agencies report that serious crimes in Indian communities are primarily violent crimes, including homicide, rape, sexual assault, aggravated assault, gang violence and other juvenile crime. About 83% of the Indian country cases opened by the FBI between 1994-97 were either violent crimes or involved child physical or sexual abuse. The following statistics indicate the severity of violent crime among American Indians.

**American Indians Suffer the Highest Rate of Violent Crime Victimization.** In its report American Indians and Crime (1999), the Department of Justice Bureau of Justice Statistics (BJS) found that from 1992 to 1996, the violent victimization rate for American Indians (124 violent crimes per 1,000) was more than twice the rate for the Nation as a whole (50 per 1,000). Id. at 2. That was the highest rate of any group in the Nation.

**American Indian Women Suffer Alarming Rates of Sexual Assault.** American Indians suffer 7 rapes or sexual assaults per 1,000 population compared to 3 per 1,000 among Black Americans, 2 per 1,000 among Caucasians, and 1 per 1,000 among Asian Americans. Id. at 3.

**American Indians Suffer the Highest Rate of Child Abuse and Neglect.** The HHS National Child Abuse and Neglect Data System reports that the rate of child abuse and neglect among American Indian children was the highest in the nation in 1995.

**Youth Violence is a Growing Problem in Indian Communities.** The FBI, the BIA, and tribal law enforcement agencies report that violent crime by juveniles and Indian youth gangs is on the rise in many Indian communities. The Bureau of Prisons (BOP) reports that the number

of American Indian youth in custody has increased by more than 283% since 1994, and as of today 69% of youth in federal custody are Indian.<sup>1</sup> Demographics may contribute to this problem. The median age of American Indians throughout the Nation is 24.2 years compared with 32.9 years among the general U.S. population as a whole. Many of the large western reservations report an average age of 18 or 19 years-old.

Child abuse and youth violence take a terrible toll on Indian youth.<sup>2</sup> The Indian Health Service explains, “Homicide is the second leading cause of death among Indians from 1–14 years of age and third for 15-24 years-olds.”<sup>3</sup> For example, an 8 year-old boy intentionally shot and killed a 10 year-old boy at one of the Indian Pueblos in New Mexico. Suicide is also a very serious problem among American Indian youth. Suicide is the second leading cause of death among Indians 15-24 year-olds, and some reservations have experienced a rash of teenage suicides in recent years. For example, according to testimony presented to this Committee and news reports, in the six months from August 1997 to February 1998, 6 Indian teens committed suicide and 47 Indian teens made suicide attempts on the Standing Rock Sioux Reservation located in North and South Dakota.

**Alcohol Abuse is Closely Linked to Violence.** Substance abuse is strongly associated

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<sup>1</sup> This percentage is based on the fact that there were 70 Indian youth in federal custody in 1994 and 198 Indian youth in Federal custody in 2000. The high percentage of Indian youth in Federal custody is a reflection of the Justice Department’s unique law enforcement duties in Indian country, as discussed below.

<sup>2</sup> See Final Report to the Attorney General and the Secretary of the Interior of the Executive Committee on Indian Law Enforcement Improvement (October 1997) at 4–5.

<sup>3</sup> Indian Health Service, Key Facts About American Indian and Alaska Native Youth (July 1997).

with violence against American Indians, and alcohol is the primary substance abused. In 55% of the violent crimes against Indians, victims reported that the offender was under the influence of alcohol, drugs, or both. In contrast, 44% of Caucasian victims and 35% of Black American victims reported made similar reports about offenders. When the violence is committed by American Indians against American Indians, the rate of alcohol involvement may be as much as 66% or more. Similarly, the 1996 arrest rate for alcohol-related offenses (drunk driving, etc.) among American Indians was more than double that of the general population. BJS, American Indians and Crime at 9, vii.

## **THE FEDERAL TRUST RESPONSIBILITY AND INDIAN LAW ENFORCEMENT**

Historically, the United States has recognized Indian tribes as sovereign nations, over which the Federal Government has a trust responsibility.<sup>4</sup> The United States set aside Indian reservations as permanent homes for Indian tribes, and the United States has a trust responsibility to promote the welfare of native peoples, which includes a duty to assist tribes in making their reservations livable homes.<sup>5</sup>

The Justice Department's basic responsibility to preserve public safety for residents of Indian communities derives from the unique trust relationship between the United States and Indian tribes and from specific statutes, such as the Major Crimes Act, the General Crimes Act, and other Acts that establish general federal jurisdiction over felony crimes by or against Indians, including homicide, rape, and aggravated assault. In recent years, the Justice Department has been authorized to make grants to Indian tribes to assist tribal law enforcement and criminal

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<sup>4</sup> Executive Order 13084 (1998)

<sup>5</sup> See Montana v. United States, 450 U.S. 544, 566 & n. 15 (1980).

justice systems.

Thus, the U.S. Attorneys prosecute felony crimes committed by or against Indians throughout most of Indian country.<sup>6</sup> Tribal criminal justice systems handle misdemeanor cases against Indian offenders. 25 U.S.C. sec. 1302. The Interior Department Bureau of Indian Affairs has historically policed Indian reservations or contracted with Indian tribes to provide basic law enforcement services. 25 U.S.C. secs. 450 et seq. BIA and tribal police generally serve as first responders to Indian country crime. The FBI, working cooperatively with BIA and tribal police, investigates felony crimes by or against Indians. Justice Department victim-witness coordinators assist witnesses and crime victims in Indian country. In short, the United States has unique law enforcement responsibilities in Indian communities.

## **THE INDIAN LAW ENFORCEMENT IMPROVEMENT INITIATIVE**

In 1997, recognizing the severe problem of violent crime among American Indians, President Clinton directed the Secretary of the Interior and the Attorney General to work with tribal governments to analyze law enforcement problems on Indian lands and suggest ways for improving public safety and criminal justice in Indian country. Beyond the increasing crime rates in Native American communities, the President cited the lack of police officers, criminal investigators, and detention facilities as evidence of the importance of addressing this problem.

In response, the Secretary and the Attorney General formed an Executive Committee for

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<sup>6</sup> In some areas of Indian country, Congress has delegated law enforcement authority to the states under Public Law No. 83-280. In those areas, tribal governments retain concurrent law enforcement authority over minor crimes by Indian offenders, and tribal police may serve as first responders to felony crime.

Indian Country Law Enforcement Improvements with tribal leaders and representatives from the Interior and Justice Departments. At the request of the Executive Committee, U.S. Attorneys in districts with Indian tribes led an extensive series of tribal consultations on Indian country law enforcement in the fall of 1997. Consultations revealed a large gap between public safety in Indian country and the rest of the United States. For example, the Navajo Nation is the largest land based Indian tribe with 17 million acres of land. The Navajo Nation has 0.9 police officers per 1,000 residents compared with 2.3 officer per 1,000 in comparable communities outside of Indian country. The Navajo Nation has a homicide rate that is comparable to that of our more violent cities. Based on the U.S. Attorneys' consultations, the Executive Committee concluded that to effectively fight crime in Indian country and improve public safety, the United States must work with Indian tribes to ensure that there is a full spectrum of Federal and tribal law enforcement resources. That could include BIA and tribal uniformed police, criminal investigators, tribal courts, FBI agents, U.S. Attorney personnel, support staff, victim-witness coordinators, juvenile justice programs, detention facilities, law enforcement equipment, and training.

Uniformed police play an important role in crime fighting because they are the first on the scene. A well-staffed uniformed police force can deal with juvenile offenders swiftly and effectively, deterring them from more serious crime. BIA and Tribal criminal investigators also play a critical role in the criminal justice system. They are well situated to gather information about criminal activity and assist in solving cases that threaten community well-being.

Tribal courts are also crucial to maintaining law and order in Indian communities. When

tribes have a range of sanctions and crime suppression, prevention, and intervention programs, tribal criminal justice systems can reduce the volume of serious offenders who must be dealt with in the federal system. The range of sanctions available to tribal courts should include detention for violent offenders, electronic monitoring and other alternative sentencing for lesser offenders. Tribal governments also need juvenile crime prevention programs and youth programs, such as boys and girls clubs.

After giving serious consideration to these factors and the information gathered through consultations with tribal leaders across the country, the Attorney General and the Secretary of the Interior approved the Executive Committee's report and recommended to the President that Justice and Interior undertake on-going efforts to improve law enforcement in Indian country. In response, the President sought funds for both Departments to establish the Indian Country Law Enforcement Initiative.

In FY 99, Congress appropriated \$89 million for the Justice Department for the Indian Law Enforcement Improvement Initiative, to fund additional FBI agents for Indian Country and support the following grant programs. Under the initiative, the Community Oriented Policing Services provided \$32.8 million in grants to 140 tribal governments to fund 213 police officer positions, law enforcement equipment and technology, and police officer and administrative training. The Corrections Program Office received \$34 million in funds for detention facilities and funded 11 Indian tribes to assist them with the design and construction of juvenile and adult correctional facilities. The Office of Juvenile Justice and Delinquency Programs received \$10 million and made grants to 34 Indian tribes to prevent and control juvenile crime. The Bureau of Justice Assistance received \$5 million to assist tribal courts and awarded 76 grants to develop and

enhance tribal courts, including several intertribal courts. In addition, the FBI added 30 new agents to investigate Indian country crimes.

For FY 2000, Congress appropriated \$91.5 million for the initiative for tribal police officers, training, and equipment, the construction of tribal detention facilities, juvenile crime prevention, and tribal courts. In furtherance of this year's program implementation, the Justice Department has scheduled regional consultation meetings for tribal governments throughout the Nation from March 17 through March 26, 2000. In addition, the BIA, the Indian Health Service, and the Justice Department will co-sponsor a meeting with tribal governments in early March to discuss promising tribal practices for addressing alcohol abuse, crime, and violence.

#### **THE JUSTICE DEPARTMENT FY 2001 INDIAN LAW ENFORCEMENT REQUEST**

In light of the serious and rising violent crime problems in American Indian and Alaska Native communities, the Justice Department has requested \$173.3 million for FY 2001 the Indian Law Enforcement Improvement Initiative to be used to increase the number of fully trained and equipped police officers in Indian country, improve the quality of the criminal justice system (including tribal courts, detention facilities, evidence gathering and crime information systems), enhance substance abuse programs, combat tribal youth crime, and increase federal prosecutorial and investigative resources in Indian country.

The Justice Department's \$173.3 million FY 2001 request for the initiative is broken down as follows:

- **Federal Bureau of Investigation.** \$4,639,000 for 31 Indian country victim-witness coordinators, funding for Indian country forensic exams, and funding for overtime for tribal police who are part of the FBI's multi-jurisdictional Safe Trails Task Forces. (This

is a new request.)<sup>7</sup>

- **United States Attorneys.** \$4,699,000 for 60 positions (33 Assistant U.S. Attorneys and 27 support staff) to increase federal prosecutorial and investigative resources to address violent crime, including gang-violence and juvenile violence, in Indian country. (This is a new request.)
- **Office of Tribal Justice.** \$932,000 for 8 positions under the Office of the Associate Attorney General to institutionalize the Office of Tribal Justice (OTJ) as an integral, ongoing part of the Department. OTJ coordinates with departmental components that have responsibilities concerning tribal issues, including improving Indian country law enforcement, assistance to tribal law enforcement and courts, civil rights protection, environmental protection, tribal land and resource protection, and litigation involving Indian interests. (This is a new request).
- **Criminal Division.** \$70,000 for 1 position for the Criminal Division to increase capacity to analyze Indian country crime problems. (This is a new request).
- **Community Oriented Policing Services (COPS) Tribal Resources Grant Program.** \$45 million to improve tribal law enforcement, including funding for police officers, training, and equipment. (\$5 million increase from FY 2000 Appropriation).
- **COPS Indian Country Forensics Evidence Gathering.** \$5 million to increase the

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<sup>7</sup> \$2.6 million would hire and equip 31 victim witness specialists to assist witnesses and crime victims in Indian country. \$1.4 million would provide funding for contracts for forensic evidence to facilitate FBI investigation of violent crimes and sexual assaults in the Albuquerque, Minneapolis, and Salt Lake City field offices, where 75% of federal Indian country crime cases originate. \$634 thousand would provide for overtime for tribal, state and local police officers on 10 to 12 Safe Trails Task Forces.

capacity of tribal law enforcement to collect forensic evidence to address the current serious lack of tribal capacity in this area. (This is a new request and is part of the COPS request for crime fighting through technology).

- **Office of Justice Programs (OJP) Corrections Program Office.** \$34 million for the construction of detention facilities to provide adequate space to incarcerate violent offenders punished under tribal law. (Same as FY 2000 Appropriation).
- **Tribal Youth Crime Prevention Program.** \$20 million for grants to Indian tribes to fund comprehensive tribal delinquency prevention, control, and juvenile justice system improvement for tribal youth. The OJP Office of Juvenile Justice and Delinquency Prevention administers this tribal youth program. (\$7.5 million increase from FY 2000 Appropriation).
- **Tribal Court Enhancement.** \$15 million for grants to Indian tribes for the development, enhancement, and the operation of tribal courts. OJP Bureau of Justice Assistance (BJA) will administer this program and will promote funding for intertribal courts to maximize the distribution of funds. This program is an essential part of the Justice Department's overall effort to reduce violent crime in Indian country because tribal court resources are necessary to address the increased volume of cases resulting from increased police resources and rising crime. (\$10 million increase over FY 2000 Appropriation).
- **OJP Indian Country Grants Program.** \$21 million to address specific problems of violent and alcohol-related crime particular to Indian communities, including \$8 million for to establish diversionary programs for non-violent recidivist alcohol offenders; \$5 million to establish Sexual Assault Nurse Examiner Units to address the alarmingly high rates of

rape and sexual assault against American Indian women; and \$8 million for tribal youth in the juvenile justice system suffering mental health and/or behavioral problems. (This is a new request.)

- **OJP Zero Tolerance Drug Supervision Program.** \$10 million for comprehensive programs of drug testing, drug treatment and graduated sanctions for offenders in tribal detention facilities. (This is a new request).
- **OJP Tribal Criminal and Civil Legal Assistance Program.** \$6 million for criminal and civil legal assistance for indigent Indians appearing before the tribal courts and to fund the development of tribal college criminal and civil legal assistance curriculum. (This is a new request).
- **OJP Police Corps.** \$5 million for the Police Corps Program to provide scholarships for students committed to entering the field of law enforcement in Indian country. (This new request for a tribal-specific program is part of the continuing OJP Police Corps program.)
- **Tribal Criminal Justice Systems.** \$2 million for the Bureau of Justice Statistics to improve tribal law enforcement capacity to gather information and statistics about crime and tribal criminal justice systems. (This is a new request.)

In addition, the Justice Department has also sought to include Indian tribes in general programs, such as the Violence Against Women Program and the Drug Courts Program. We will continue these efforts as well. To ensure that these programs provide the maximum support for tribal law enforcement possible, the Justice Department is closely coordinating its efforts with the BIA and we are in frequent consultation with tribal law enforcement agencies.

## **CONCLUSION**

In closing, the Justice Department recognizes its unique law enforcement responsibilities towards Indian country. The Department is dedicated to addressing the serious violent crime problems in Indian communities and to improving Indian country and tribal law enforcement. Our FY 2001 budget request is intended to improve tribal law enforcement and promote public safety by funding fully trained and equipped tribal law enforcement officers, building detention capacity and juvenile crime prevention capacity, enhancing tribal courts, and increasing federal prosecutorial and investigative services in Indian country. In addition, we also seek to address specific Indian country crime problems by, among other things, improving evidence and crime information gathering in Indian country, focusing especially on rape and sexual assault cases, addressing the close connection between alcohol abuse and the increasing crime rates in Indian communities, and dealing with troubled tribal youth in the juvenile justice system. We ask for your assistance in securing funding for these important efforts.

Again, thank you for this opportunity to testify.